

Introduced by Senator Negrete McLeod

December 2, 2008

An act to amend Section 399.20 of, and to add Section 387.6 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 32, as introduced, Negrete McLeod. Renewable electric generation facilities.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric

generation facility, as defined, that is owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the renewables portfolio standard program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity generated by an electric generation facility at a market price referent established by the commission pursuant to the renewables portfolio standard program. Existing law requires the electrical corporation to make this tariff available to customers that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would require an electrical corporation to file with the commission a standard tariff for the electricity purchased from an electric generation facility that is owned, leased, or rented by a retail customer of the electrical corporation. The bill would revise the first requirement, discussed above, to instead require that the electric generation facility have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, discussed below. The bill would revise the third requirement, discussed above, to require that the electric generation facility be strategically located and interconnected to the electric grid in a manner that is considered deliverable to load, pursuant to the

deliverability assessments of the Independent System Operator (ISO). The bill would require that the tariff provide for a base payment rate for every kilowatthour of electricity purchased from an electric generation facility at the market price referent established by the commission pursuant to the renewables portfolio standard program, for a period of 10, 15, or 20 years, as authorized by the commission. The bill would authorize the commission to adjust the payment rate to reflect the value of the electricity on a time-of-delivery basis and any other attributes of renewable generation and require, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether other ratepayers receive service pursuant to the tariff. The bill would require the electrical corporation to make the tariff available to any customer that owns, leases, or rents an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with electrical corporations reaches 500 megawatts, or its proportionate share of that limit. The bill would provide that the electricity purchased from an electric generation facility counts toward meeting the electrical corporation's renewables portfolio standard and that electricity generated by the electric generation facility counts toward meeting the electrical corporation's resource adequacy requirements. The bill would require the commission, in consultation with the ISO, to monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to the bill's provisions, would require the commission to establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability, and would authorize the commission to reduce the 3 megawatt capacity limitation if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory. The bill would recast the existing authority of the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

This bill would provide that a customer that receives service pursuant to a tariff adopted by an electrical corporation pursuant to the

above-described provisions is not eligible to participate in any net metering program. Under the bill, a customer that elects to receive electrical service pursuant to a tariff filed by an electrical corporation pursuant to the bill is eligible to receive ratepayer-funded incentives in accordance with the self-generation incentive program or the California Solar Initiative for the capacity needed to offset part or all of the electrical demand of the customer.

This bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. The bill would require the local publicly owned electric utility to make the tariff available to customers that own and operate an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with local publicly owned electric utilities reaches 250 megawatts. The bill would provide that the electricity purchased from an electric generation facility counts towards meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions, and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime. By placing additional requirements upon local publicly owned electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state should encourage the reduction of electricity
4 demand at customer sites and increase generating capacity in order
5 to meet the demand for electricity.

6 (b) Some tariff structures and regulatory structures are presenting
7 a barrier to meeting the requirements and goals of the California
8 Renewables Portfolio Standard Program (Section 387 of, and
9 Article 16 (commencing with Section 399.11) of Chapter 2.3 of
10 Part 1 of Division 1 of, the Public Utilities Code).

11 (c) Small projects of less than three megawatts that are otherwise
12 eligible renewable energy resources may face difficulties in
13 participating in competitive solicitations under the renewables
14 portfolio standard program.

15 (d) A tariff that allows customers of electrical corporations and
16 local publicly owned electric utilities to sell electricity generated
17 by renewable technologies would address these barriers and could
18 assist in the achievement of the renewables portfolio standard and
19 the state's goals for reducing emissions of greenhouse gases
20 pursuant to the California Global Warming Solutions Act of 2006.

21 (e) A tariff for electricity generated by renewable technologies
22 should recognize the environmental attributes of the renewable
23 technology, the characteristics that contribute to peak electricity
24 demand reduction, reduced transmission congestion, avoided
25 transmission and distribution improvements, and in a manner that
26 accelerates the deployment of renewable energy resources.

27 (f) It is the policy of this state and the intent of the Legislature
28 to encourage the generation of electricity from eligible renewable
29 energy resources at the sites where the electricity will be utilized.

30 SEC. 2. Section 387.6 is added to the Public Utilities Code, to
31 read:

32 387.6. (a) It is the policy of the state and the intent of the
33 Legislature to encourage electrical generation from eligible
34 renewable energy resources.

35 (b) As used in this section, "electric generation facility" means
36 an electric generation facility, owned, leased, or rented by a retail
37 customer of a local publicly owned electric utility, and that meets
38 all of the following criteria:

1 (1) Has an effective capacity of not more than three megawatts
2 and is located on property owned or under the control of the
3 customer. Premises that are leased by the customer are under the
4 control of the customer for purposes of this paragraph. The
5 customer is not required to own the electric generation facility.

6 (2) Is interconnected and operates in parallel with the electric
7 transmission and distribution grid.

8 (3) Is strategically located and interconnected to the electric
9 transmission system in a manner that optimizes the deliverability
10 of electricity generated at the facility to load centers.

11 (4) Is an eligible renewable energy resource, as defined in
12 Section 399.12.

13 (c) A local publicly owned electric utility that sells electricity
14 at retail to 75,000 or more customers shall adopt a standard tariff
15 for electricity purchased from an electric generation facility.

16 (d) The governing board of the local publicly owned electric
17 utility shall ensure that the tariff adopted pursuant to subdivision
18 (c) reflects the value of every kilowatthour of electricity generated
19 on a time-of-delivery basis. The governing board may adjust this
20 value based on the other attributes of renewable generation. The
21 governing board shall ensure, with respect to rates and charges,
22 that ratepayers that do not receive service pursuant to the tariff are
23 indifferent to whether a ratepayer with an electric generation
24 facility receives service pursuant to the tariff.

25 (e) A local publicly owned electric utility that sells electricity
26 at retail to 75,000 or more customers shall make the tariff available
27 to customers that own, lease, or rent an electric generation facility
28 within the service territory of the utility, upon request, on a
29 first-come-first-served basis, until the combined statewide
30 cumulative rated generating capacity of those electric generation
31 facilities reaches 250 megawatts. A local publicly owned electric
32 utility may make the terms of the tariff available to customers in
33 the form of a standard contract. A local publicly owned electric
34 utility is only required to offer service or contracts under this
35 section until the utility meets its proportionate share of the 250
36 megawatts based on the ratio of its peak demand to the total
37 statewide peak demand.

38 (f) Every kilowatthour of electricity purchased from an electric
39 generation facility shall count toward meeting the local publicly

owned electric utility's renewables portfolio standard annual procurement targets for purposes of Section 387.

(g) (1) A local publicly owned electric utility may establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(2) A local publicly owned electric utility may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the utility finds that a reduced capacity limitation is necessary.

SEC. 3. Section 399.20 of the Public Utilities Code is amended to read:

399.20. (a) It is the policy of this state and the intent of the Legislature to encourage ~~energy production~~ *electrical generation* from *eligible* renewable energy resources.

(b) As used in this section, "electric generation facility" means an electric generation facility, ~~owned and operated by~~ *owned, leased, or rented by* a retail customer of an electrical corporation; ~~and~~ that meets all of the following criteria:

(1) Has an effective capacity of not more than ~~one and one-half~~ *three* megawatts and is located on property owned or under the control of the customer. *Premises that are leased or rented by the customer are under the control of the customer for purposes of this paragraph. The retail customer is not required to own the electric generation facility.*

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is strategically located and interconnected to the electric ~~transmission system~~ *grid* in a manner that ~~optimizes the deliverability of electricity generated at the facility to load centers~~ *is considered deliverable to load, pursuant to the Independent System Operator deliverability assessments.*

(4) Is an eligible renewable energy resource, as defined in Section 399.12.

(c) Every electrical corporation shall file with the commission a standard tariff for electricity ~~generated by~~ *purchased from* an electric generation facility. *The commission may modify or adjust the requirements of this section for any electrical corporation with*

1 *less than 100,000 service connections, as individual circumstances*
2 *merit.*

3 (d) The tariff shall provide for *a base payment rate* for every
4 kilowatthour of electricity ~~generated by~~ *purchased from* an electric
5 generation facility at the market price as determined by the
6 commission pursuant to Section 399.15 for a period of 10, 15, or
7 20 years, as authorized by the commission. *The commission may*
8 *adjust the payment rate to reflect the value of every kilowatthour*
9 *of electricity generated on a time-of-delivery basis and any other*
10 *attributes of renewable generation. The commission shall ensure,*
11 *with respect to rates and charges, that ratepayers that do not*
12 *receive service pursuant to the tariff are indifferent to whether a*
13 *ratepayer with an electric generation facility receives service*
14 *pursuant to the tariff.*

15 (e) Every electrical corporation shall make this tariff available
16 to customers that ~~own and operate~~ *own, lease, or rent* an electric
17 generation facility within the service territory of the electrical
18 corporation, upon request, on a first-come-first-served basis, until
19 the combined statewide cumulative rated generating capacity of
20 those electric generation facilities ~~equals~~ *reaches* 500 megawatts.
21 An electrical corporation may make the terms of the tariff available
22 to customers in the form of a standard contract subject to
23 commission approval. Each electrical corporation shall only be
24 required to offer service or contracts under this section until that
25 electrical corporation meets its proportionate share of the 500
26 megawatts based on the ratio of its peak demand to the total
27 statewide peak demand ~~of all electrical corporations.~~

28 (f) Every kilowatthour of electricity ~~generated by the~~ *purchased*
29 *from an* electric generation facility shall count toward *meeting* the
30 electrical corporation's renewables portfolio standard annual
31 procurement targets for purposes of paragraph (1) of subdivision
32 (b) of Section 399.15.

33 (g) ~~The physical generating capacity of electricity generated by~~
34 ~~an electric generation facility, consistent with Section 380, shall~~
35 ~~count toward the electrical corporation's resource adequacy~~
36 ~~requirement for purposes of Section 380.~~

37 ~~(h) The commission may modify or adjust the requirements of~~
38 ~~this section for any electrical corporation with less than 100,000~~
39 ~~service connections, as individual circumstances merit.~~

1 (h) (1) *The commission, in consultation with the Independent*
2 *System Operator, shall monitor and examine the impact on the*
3 *transmission and distribution grid and any effects upon ratepayers*
4 *resulting from electric generation facilities operating pursuant to*
5 *a tariff or contract approved by the commission pursuant to this*
6 *section.*

7 (2) *The commission shall establish performance standards for*
8 *any electric generation facility that has a capacity greater than*
9 *one megawatt to ensure that those facilities are constructed,*
10 *operated, and maintained to generate the expected annual net*
11 *production of electricity and do not impact system reliability.*

12 (3) *The commission may reduce the three megawatt capacity*
13 *limitation of paragraph (1) of subdivision (b) if the commission*
14 *finds that a reduced capacity limitation is necessary to maintain*
15 *system reliability within that electrical corporation's service*
16 *territory.*

17 (i) (1) *A customer that elects to receive electrical service*
18 *pursuant to a tariff filed by an electrical corporation pursuant to*
19 *this section is eligible to receive ratepayer-funded incentives in*
20 *accordance with Section 25782 of the Public Resources Code, or*
21 *with Section 379.6, for the capacity needed to offset part or all of*
22 *the electrical demand of the customer. For the purpose of*
23 *determining the capacity needed to offset part or all of the*
24 *electrical demand of an agricultural customer, the electrical*
25 *corporation shall aggregate the electrical load of the agricultural*
26 *customer under the same ownership located on property adjacent*
27 *or contiguous to the agricultural customer's electric generation*
28 *facility.*

29 (2) *A customer that receives service under a tariff or contract*
30 *approved by the commission pursuant to this section is not eligible*
31 *to participate in any net metering program.*

32 (j) (1) *A customer electing to receive service under a tariff or*
33 *contract approved by the commission shall continue to receive*
34 *service under the tariff or contract until either of the following*
35 *occurs:*

36 (A) *The customer no longer meets the eligibility requirements*
37 *for receiving service pursuant to the tariff or contract.*

38 (B) *The period of service established by the commission*
39 *pursuant to subdivision (d) is completed.*

1 (2) *Upon completion of the period of service established by the*
2 *commission pursuant to subdivision (d), the customer may elect*
3 *to renew receiving service pursuant to the tariff or contract*
4 *approved by the commission for the period of time then established*
5 *by the commission, or may elect to receive service under another*
6 *then applicable tariff.*

7 SEC. 4. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 certain costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

16 With respect to certain other costs, no reimbursement is required
17 by this act pursuant to Section 6 of Article XIII B of the California
18 Constitution because a local agency or school district has the
19 authority to levy service charges, fees, or assessments sufficient
20 to pay for the program or level of service mandated by this act,
21 within the meaning of Section 17556 of the Government Code.